IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 5633 of 2002

Between:
The Digavalli toddy Tapper Industrial Cooperative Society rep.by its President Sri Konkal Nageswara Rao, S/o Subbaiah, Aged 50 yrs. Occ: Toddy Tapper, R/o West Digavali, Krishna District.

..... PETITIONER

AND

1. The Govt. of A.P. rep. by its Secretary, Excise & Prohibition, Secretariat, Hyderabad.
2. The District Collector, Krishna District.
3. The Superintendent of Prohibition & Abkari-cum-Functional Registrar
   Toddy Tapper Cooperative Society, Machilipatnam, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass writ or order or orders more particularly one in the nature of writ of Mandamus declaring the action of the respondents in issuing impugned orders for bifurcation vide proceedings RC.No.1451/200/D2 dated 25-02-2002 as illegal, arbitrary and violation of Principles of natural justice.

Counsel for the Petitioner: MR.D.JAIPAL REDDY,Advcoate

Counsel for the Respondents 1 to 3: GP FOR PROHIBITION & EXCISE

The Court Made the Following :

Oral Order:

Petitioner-Society filed the present writ petition challenging the notice issued by the 3rd respondent who is the functional registrar of Toddy Tappers Cooperative Society under Section 15(1) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act').

By the impugned notice the petitioner was asked to convene the general body meeting of the society and to pass a resolution bifurcating the same as per the excise policy envisaged by the Government in G.O.Ms.No.239 dated 30-03-2001.

Opposing the writ petition, the Assistant Prohibition and Excise Superintendent—3rd respondent filed a counter stating that Sub-Divisional Prohibition and Excise Officer enquired on the petition filed by K.Maheswara Rao on the irregularities committed by the President of Digvalli Toddy Co-operative Society and submitted a report on 10-03-2001 and sought permission of the Commissioner to register a new Toddy Cooperative Society with the capable members who know tapping and where tapable trees are available. The Government in its Memo dated 09-01-2002 issued orders bifurcating the TTCS, Digvalli into two TCSS namely, Digvalli (East) and Digvalli (West) as per the guide line No.24 of Excise (Toddy) Policy guidelines for the period from 01-04-2001 to 31-03-2002 issued in G.O.Ms.No.239 dated 30-03-2001and requested the Commissioner to take further action in the light of policy guidelines.

Learned counsel for the petitioner submits that earlier some of the members of the petitioner-society applied for bifurcation of the society which was rejected by the Collector on 13-02-2001 stating that there is no provision to bifurcate the existing TCS as per the excise policy guidelines 2001-2002,

therefore, impugned notice issued by the 3rd respondent for bifurcation of the society is arbitrary and illegal.

The 3rd respondent being the Functional Registrar of the society is statutorily obligated to see whenever it is necessary to bifurcate the society he is entitled to issue such notice under Section 15(1) of the Act for amendment of bye-laws of the society. Since the society is not willing to pass such resolution, necessary steps will be taken under the Act.

Against the impugned notice petitioner will have a right of appeal/revision to the appropriate authority. In view of the same, present writ petition filed by the petitioner against the notice cannot be entertained and it is accordingly dismissed. No costs.

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A.GOPAL REDDY, J.

15-06-2004

Murthy

ASSISTANT. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Secretary, Excise & Prohibition,
Secretariat, Hyderabad.

2. The District Collector, Krishna District.

3. The Superintendent of Prohibition & Abkari-cum-Functional Registrar
Toddy Tapper Cooperative Society, Machilipatnam, Krishna District.

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